

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6933 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

HEMANTKUMAR BABULAL PANDYA

Versus

STATE OF GUJARAT

Appearance:

MR MB GANDHI for Petitioner
MR K.P. Raval, AGP for Respondent No. 1
NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 01/12/2000

ORAL JUDGEMENT

The present petition is filed for the following reliefs :

"22. It is, therefore, prayed :

- (A) Writ of mandamus or any other suitable writ in the nature of mandamus be issued to the respondents and the adverse remarks passed in the Confidential Reports of the petitioner be directed to be deleted and to mark a good report in the CR of petitioner.
- (B) That by an appropriate writ the impugned order, Annexure 'F' regarding treating the leave without pay be also directed to be cancelled and also be directed to treat the said leave as sick leave or to adjust the same against the Earned Leave and the non payment of the salary as per that order be also directed to be paid to the petitioner.
- (C) That by an appropriate writ the respondents be directed to consider the case of the petitioner for the purpose of promotion to the post of Police Inspector and adverse remarks which are made be not taken into consideration for evaluation of the merits of the petitioner with the other candidates.
- (D)
- (E)"

2. The petitioner stated in para 2 of the petitioner that the petitioner rendered his best services and he was given forty certificates of merit as well as cash prizes which will run in the face of the adverse remarks which was communicated to the petitioner, as mentioned in para 6 of the petition. Said remarks read as under :

- "(A) General Note : Irregular in his work and going on sick leave; need to improve regularity in service.
- (B) Control over offences weak."

It is also stated by the petitioner that it was for the first time in the year 1990- 91 the petitioner was required to go on leave because the petitioner was sick and that his son, who was suffering from kidney trouble had been hospitalised. It is also submitted by Mr.Gandhi, learned advocate for the petitioner that it had happened for the first time in the petitioner's 17 years career. It is further submitted by Mr.Gandhi that the petitioner thereafter was promoted to the post of P.I. and at present he is posted at Vadodara.

Therefore, to an extent the matter is not of much significance. Yet for an employee, his service record is very important and especially when there is no justification for adverse remarks, the same should not be allowed to be on the record of the employee.

3. Looking to the facts and circumstances of the case and looking to the averments made in the petition and in view of the fact that there is no counter filed to the petition, the petition is required to be allowed. The petition is allowed with the following directions:

- (i) Adverse remarks passed in the Confidential Report of the petitioner are hereby directed to be expunged.
- (ii) The order treating the leave without pay be cancelled and the said period of leave be treated as sick leave or in the alternative the same be treated as Earned Leave.
- (iii) Consequential steps like payment of leave salary, etc. be taken in view of the aforesaid directions.

4. The petition is allowed with the above directions. Rule is made absolute with no order as to costs.

1st December 2000 (Ravi R. Tripathi, J.)

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